

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN AULT

Defendant.

No. 18-CR-111-LRR

**ORDER REGARDING  
MAGISTRATE'S REPORT AND  
RECOMMENDATION  
CONCERNING DEFENDANT'S  
GUILTY PLEA**

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***I. INTRODUCTION AND BACKGROUND***

On October 31, 2018, a one-count Information was filed against Defendant Alan Ault. On January 29, 2019, Defendant appeared before United States Magistrate Judge Mark A. Roberts and entered a plea of guilty to Count 1 of the Information. On January 29, 2019, Judge Roberts filed a Report and Recommendation in which he recommended that Defendant's guilty plea be accepted. No objections to Judge Roberts's Report and Recommendation were filed. The court, therefore, undertakes the necessary review of Judge Roberts's recommendation to accept Defendant's plea in this case.

***II. ANALYSIS***

Pursuant to statute, this court's standard of review for a magistrate judge's report and recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Criminal Procedure 59(b) provides for review of a magistrate judge's report and recommendation on dispositive motions, where objections are made, as follows:

The district judge must consider de novo any objection to the


magistrate judge's recommendation. The district judge may accept, reject, or modify the recommendation, receive further evidence, or resubmit the matter to the magistrate judge with instructions.

Fed. R. Crim. P. 59(b)(3).<sup>1</sup>

In this case, no objections have been filed, and it appears to the court upon review of Judge Roberts's findings and conclusions that there is no ground to reject or modify them. Therefore, the court **ACCEPTS** Judge Roberts's Report and Recommendation of January 29, 2019, and **ACCEPTS** Defendant's plea of guilty in this case to Count 1 of the Information.

**IT IS SO ORDERED.**

**DATED** this 21st day of February, 2019.

  
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LINDA R. READE, JUDGE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA

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<sup>1</sup> *United States v. Cortez-Hernandez*, 673 F. App'x 587, 590-91 (8th Cir. 2016) (per curiam), suggests that a defendant may have the right to de novo review of a magistrate judge's recommendation to accept a plea of guilty even if no objection is filed. *But see* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b). The district court judge will undertake a de novo review of the Report and Recommendation if a written request for such review is filed within fourteen days after this order is filed.